

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

*In re* Flint Water Cases.

Judith E. Levy  
United States District Judge

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This Order Relates To:

*Bellwether III Cases*

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**OPINION AND ORDER REGARDING BELLWETHER III  
MOTIONS *IN LIMINE***

On September 12, 2024, oral argument was held on motions *in limine* related to the Bellwether III trial. The following 16 motions were resolved during that hearing for the reasons set forth on the record.

Defendants' Motion to Exclude Testimony and Documents Relating to Public-Relations Efforts, (ECF No. 3044), is denied as moot in part and denied without prejudice in part.

Defendants' Motion to Exclude Dr. Russell's Opinion That VNA's Experts Are Violating the Law or Breaching Professional Responsibilities by Offering Expert Testimony Without a Professional Engineering License, (ECF No. 3046), is granted in part and denied in part.

VNA's Motion to Exclude Evidence of David Thompson's Prior Work on Child Sex Abuse Cases and Robert McCaffrey's Prior Work on Death Penalty Cases, (ECF No. 3047), is granted.

Defendants' Motion to Admit Factual Statements in the Complaint Relating to Fault of Other Previously Named Defendants, (ECF No. 3048), is granted subject to the process set forth on the record.

Defendants' Motion to Admit the Flint Water Advisory Task Force's Final Report and the EPA's Emergency Administrative Order, (ECF No. 3052), is denied.

Defendants' Motion to Exclude Evidence about Motive, Intent, or Mental State and About VNA Employees' Personal Feelings About the Flint Water Crisis and What They Would Have Done Differently in Hindsight, (ECF No. 3054), is denied.

Plaintiffs' Motion *in Limine* for an Order Adopting Certain Previous *in Limine* Rulings from Bellwether I and the Issues Class Trial, (ECF No. 3055), is granted in part, denied as moot in part, and denied without prejudice in part.

Defendants' Motion to Exclude Evidence About Claims and Lawsuits That Do Not Involve the Flint Water Crisis, (ECF No. 3056), is granted.

Bellwether III Plaintiffs' Motion *in Limine* to Exclude All Evidence, Testimony, or Reference to Convictions, Indictments, or Charges of City and/or State Officials or Employees, (ECF No. 3057), is granted.

Bellwether III Plaintiffs' Motion *in Limine* to Preclude Evidence, Testimony, or Argument Regarding Dr. Jennifer Sample's Association with the Expert Institute, (ECF No. 3058), is denied subject to the limitations set forth on the record.

Defendants' Motion to Exclude Evidence and Testimony About NSPE Case Study Referenced in Dr. Larry Russell's Report, (ECF No. 3059), is denied.

Bellwether III Plaintiffs' Motion *in Limine* to Preclude Veolia from Introducing the Expert Reports and Deposition Testimony of Dr. Larry Russell as Evidence in Support of Their Non-Party-at-Fault Claims, (ECF No. 3060), is granted in part and denied in part. It is granted with respect to Dr. Russell's statements about the EPA's negligence from his

expert report in *Burgess v. United States*, which are hearsay not within any exception.

Defendants' Motion to Exclude Hypothetical Questions Directed at Fact Witnesses and to Prohibit Plaintiffs from Asking Fact Witnesses About Their Personal Views About What VNA Should Have Done Differently in Flint, (ECF No. 3061), is denied.

Defendants' Motion to Prohibit Improper Jury Argument, (ECF No. 3062), is denied without prejudice.

Defendants' Motion to Prohibit Plaintiffs from Requesting a Specific Amount or Range of Non-Economic Damages, (ECF No. 3063), is granted in part and denied in part subject to the process set forth on the record.

Defendants' Motion to Prohibit Plaintiffs, During the Cross Examination of VNA's Witnesses, from Introducing into Evidence, for Purposes Other than Impeachment, Documents That Have Not Previously Been Disclosed or Authenticated, (ECF No. 3064), is denied without prejudice.

IT IS SO ORDERED.

Dated: September 16, 2024  
Ann Arbor, Michigan

s/Judith E. Levy  
JUDITH E. LEVY

United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or first-class U.S. mail addresses disclosed on the Notice of Electronic Filing on September 16, 2024.

s/William Barkholz  
WILLIAM BARKHOLZ  
Case Manager